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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,253	04/08/2004	Udo J. Vetter	22776	8401
535	7590	03/09/2006	EXAMINER	
THE FIRM OF KARL F ROSS 5676 RIVERDALE AVENUE PO BOX 900 RIVERDALE (BRONX), NY 10471-0900			AHMED, AAMER S	
			ART UNIT	PAPER NUMBER
			3763	

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/821,253

Applicant(s)

VETTER ET AL.

Examiner

Aamer S. Ahmed

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/30/2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

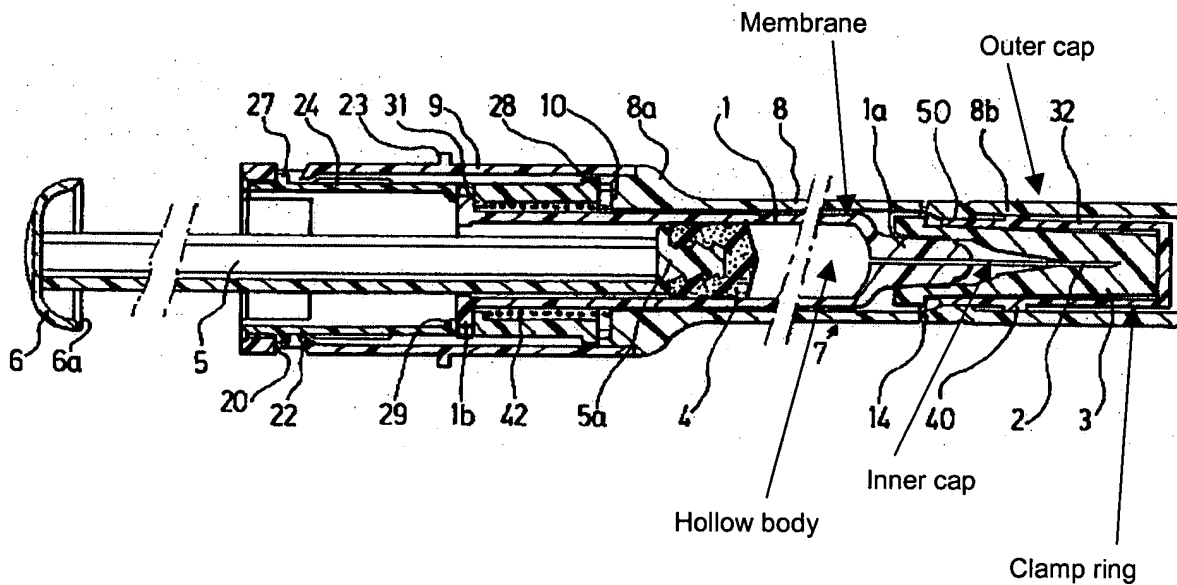
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Brunel U.S. Patent Number 6,186,980. Brunel ('980) describes a hypodermic syringe (7) comprising: a hollow body (see figure 1) adapted to hold a liquid and having an axially outwardly open end; an inner cap (see figure 1) fitted over the body end; an axially extending needle (2) seated in the inner cap and having an outer point projecting axially inward from the inner cap and having an outer point projecting axially inward from the inner cap toward the body; a washer (1a) between the inner cap and the body end, having a central hole into which the inner point of the needle engages, and provided with a membrane (see figure 1) closing the hole and spaced axially inward from the inner point and out of engagement with the needle; an outer cap (see figures 1 and 12) fittable over the inner cap and needle (2); a clamp ring engageable around the inner cap; a frangible web (40) connecting the ring to the outer cap; and interengaging formations (14) on the ring and on the inner cap for releasably retaining the outer cap in an outer position spaced axially outward of the body and in which an interior of the outer cap is open to the exterior and in an inner position spaced axially closely to the body and in which the interior of the outer cap is not open to the exterior.

Fig 1



Moreover, Brunel ('980) discloses that the device comprises a liner cup (3) inside the outer cap, receiving the outer point of the needle, and clamped in the inner position between the outer cap and the inner cup; and wherein the inner cup is formed with a central outwardly extending projection from which the needle extends axially outward and that fits snugly in the liner cup in the inner position.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brunel ('980) in view of Futagawa et al U.S. Patent Number 5,624,405. Brunel ('980) discloses the hypodermic syringe as described above in reference to claim 2. Brunel ('980) fails to disclose that the liner cup is made of rubber. Futagawa et al ('405) discloses a similar hypodermic syringe with a liner (5) made of rubber (col. 3 line 43). It would have been obvious to one having ordinary skill in the art at the time of invention by applicant to modify the hypodermic syringe of Brunel ('980) by making the liner cup of rubber as taught by Futagawa et al ('405) in order to seal the syringe (col. 4 line 50).

Response to Arguments

Applicant's arguments with respect to claims 1-4 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 4240425 A	Akhavi; David S.
US 6102893 A	Aneas; Antoine
US 20010016714 A1	Bell, David et al.
US 5447500 A	Bergstresser; William A. et al.
US 5755696 A	Caizza; Richard J.
US 20050101918 A1	Chen, Chang-Tzu et al.
US 2847996 A	COHEN MILTON J et al.

Art Unit: 3763

US 5125908 A	Cohen; Milton J.
US 20040162523 A1	Conway, Hugh T.
US 2371086 A	DAVID WATSON EDWARD et al.
US 5817064 A	DeMarco; Anthony O. et al.
US 20030236501 A1	Donnan, Jeremy Francis et al.
US 3889673 A	Dovey; Brian H. et al.
US 5505705 A	Galpin; Kim R. et al.
US 5215535 A	Gettig; William A. et al.
US 6736794 B2	Grabis; Dietrich W. et al.
US 4300678 A	Gyure; Sandor et al.
US 4947863 A	Haber; Terry M. et al.
US 5067948 A	Haber; Terry M. et al.
US 5314414 A	Hake; Lawrence W. et al.
US 5980495 A	Heinz; Jochen et al.
US 20050075611 A1	Hetzler, Kevin G. et al.
US 3098482 A	JAMES O'SULLIVAN
US 5741236 A	Kakiuti; Makoto
US 6068614 A	Kimber; Michael Browning et al.
US 6860871 B2	Kuracina; Thomas C et al.
US 6443929 B1	Kuracina; Thomas C. et al.
US 6629959 B2	Kuracina; Thomas C. et al.
US 4892521 A	Laico; Joseph P. et al.
US 5304148 A	Lannoye; Randy J. et al.
US 5338310 A	Lewandowski; Raymond D.
US 5295975 A	Lockwood, Jr.; Hanford N.
US 5217025 A	Okamura; Toshio
US 5405332 A	Opalek; A. Allen
US 4334536 A	Pfleger; Frederick W.
US 6620136 B1	Pressly, Sr.; William B. S. et al.
US 5843047 A	Pyrozyk; Ronald Robert et al.
US 4826491 A	Schramm; James J.
US 4781697 A	Slaughter; Robert
US 5997513 A	Smith; Jerry A. et al.
US 5571092 A	Thompson; Nancy L.
US 5669888 A	Trapp; Claude
US 4872552 A	Unger; Larry E.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aamer S. Ahmed whose telephone number is 571-272-5965. The examiner can normally be reached on Monday thru Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



A.A.



EXHIBIT 10/821,253
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